

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FOUR

THADDEUS THOMAS, a Minor, by and through )	No. ED103338
his Next Friend, Marlin Thomas, and MARLIN )	
THOMAS and MA SHERYLL JOY THOMAS, )	
Individually, )	
)	
Appellants, )	Appeal from the Circuit Court of
)	Franklin County, Missouri
vs. )	13AB-CC00063
)	
MERCY HOSPITALS EAST COMMUNITIES, )	Honorable Gael D. Wood
d/b/a MERCY HOSPITAL – WASHINGTON, )	
and MERCY CLINIC EAST COMMUNITIES, )	
)	Filed: September 13, 2016
Respondents. )	

In this medical malpractice action, Appellants appeal the judgment entered by the trial court in favor of Mercy Hospitals East Communities, d/b/a Mercy Hospital – Washington, and Mercy Clinic East Communities (collectively, “Mercy”) following a jury trial. Appellants contend that the trial court abused its discretion by failing to strike for cause Venireperson 24 (“Venireperson”) after she expressed during voir dire a disqualifying bias in favor of Mercy: that she would “start off slightly in favor” of Mercy in this case because her sister was a registered nurse at another Mercy facility.

REVERSED AND REMANDED.

DIVISION IV HOLDS: Venireperson’s clearly expressed bias disqualified her from serving on the jury in this case, since she was not subsequently rehabilitated; Mercy’s counsel failed to examine Venireperson as to the nature, character, and cause of her bias—eliciting only the bare commitment from Venireperson that she would do her “level best” to follow the court’s instructions and decide the case based solely on the evidence—and thus never lifted the shadow of doubt cast by Venireperson’s statement of bias over her ability to be fair and impartial.

Opinion by: James M. Dowd, P.J.

Kurt S. Odenwald, J., Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Bradley L. Bradshaw

Attorney for Respondent: Kenneth W. Bean

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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